

Attachment B

Nassau Suffolk Hospital Council Comments on Nassau County Local Law 1-2003 Report By Nassau County Department of Health

The 12 Nassau County not-for-profit hospital members of the Nassau-Suffolk Hospital Council (NSHC) have welcomed the opportunity to work with the Nassau County Department of Health in complying with Local Law 1-2003. NSHC, which advocates for all of Long Island's not-for-profit hospitals, has been pleased to function as the representative of the Nassau County not-for-profit hospitals regarding this highly sensitive and important public policy issue.

The Hospital Council commends the Nassau County Department of Health for the professional approach they have taken in the first year of the law's implementation, and we look forward to working with the department of health, the county legislature, and the county executive on future refinements in this important dialogue going forward.

OBSERVATIONS ON REPORT DETAILS

The NSHC and our members are concerned that this public dialogue could be hampered due to the limits of Local Law 1-2003. This law narrowly defines and applies the word indigent to mean only those charity care patient cases that present no means at all of paying for hospital expenses. It also only focuses on those patients whereby charity care determinations have been made before or at the time of service. The law overlooks those patients who are the working poor, the uninsured and underinsured and those experiencing serious financial hardship in their lives. These categories of patients also receive charity care from our member hospitals. Charity care determinations may be made after services are rendered without formal applications being obtained. These situations explain the variations in the numbers represented in the county report.

It is important to note that, as presently required by State regulation, each hospital submits, within their annual cost report, calculations of the amount of uncompensated care they have provided during the fiscal year. For reasons generally noted above, there are many instances of patient care being provided where advance determinations and applications are not obtained. The hospitals provision of emergency services is one good example. Federal and state law requires that emergency services be provided irrespective of a person's ability to pay. Subsequent information collected from a patient may or may not be able to determine eligibility for charity care or financial aid. Hence, for many of these episodes of care, hospitals must make a determination after the fact as to how to account for the value of care provided.

Another major example is in the area of high volume outpatient services. In this case, the personnel and system requirements to capture charity care applications or query a system for previous eligibility for each service is often beyond the hospital's fiscal resources to

provide. These situations explain some of the limitations of the information collected pursuant to the charity care reporting law.

In recognition of this issue, the annual state required filing collects information on each hospital's charity care and bad debt, which in combination is labeled "uncompensated care". A good portion of this amount is also considered by hospitals to be charity care. For the Nassau hospitals reporting under Local Law 1-2003, the total amount of uncompensated care provided in 2003 was over \$197 million in charges, which when reduced to cost is valued at over \$113 million. These figures also include a significant amount of charity care provided to those serviced by the hospitals in Nassau County. What are not included in these figures are the value free services, examples of which are mentioned later, nor the shortfalls from providing service to Medicaid beneficiaries. This is especially relevant for outpatient and emergency Medicaid services for which the reimbursement rates have not been updated in nearly a decade.

The Council will work with our member hospitals to continue to refine industry accounting mechanisms so that in future reports these variations might be better understood. Toward that end, HANYS is convening a meeting of accounting firms along with representatives of hospitals statewide to initiate discussions on charity care and uncompensated care accounting procedures and practices. Perhaps a change in the law is warranted to capture the true extent of charity care provided by hospitals.

Although as group, hospitals have been working on more uniform guidelines to improve charity care access, hospitals have long standing missions to provide care to those in need as evidenced by a wide variety of community services – reported in their Community Service Plans. This mission can be achieved in many ways: community programs, maintaining and replacing facilities, upgrading and adding technologies as they develop, conducting medical research, providing medical education of all types, emergency preparedness, and 24 hour emergency services capabilities.

The DOH report mentions some ways through which hospitals fulfill their community benefit obligations and merit their tax-exempt status. This requirement for the provision of emergency services 24/365 is not mentioned including the fact that the IRS considers this a major component of fulfilling the requirements for tax-exemption.

Examples of other ways in which hospitals fulfill their community service obligations are appended at the end of our comments.

Conclusions and Recommendations

As everyone is well aware, the crisis of the uninsured is reaching epidemic proportions in both Nassau and Suffolk Counties, as well as throughout the country. Consequently, the traditional mechanisms for the provision of care to the uninsured, underinsured, and financially strained are being overwhelmed. That is why in the past year, our member hospitals spurred the development of and have adopted statewide guidelines developed by the Healthcare Association of New York State (HANYS). These guidelines help

make hospital charity care policies more consistent within the capacity of each institution. They also set forth a pledge on behalf of our member hospitals to go beyond a commitment to just the indigent, but to the working poor and asset limited uninsured populations as well. Sliding scales of payment are extended to these patients, taking into account their unique financial situations and ability to pay in an area that has one of the highest costs of living in the country. The overriding premise for our members in developing these guidelines was that no patient should ever avoid seeking appropriate hospital care or worry about becoming impoverished because of their concerns regarding their ability to pay for hospital services. Our members see this commitment as part of their charitable mission to serve their communities.

Our member hospitals remain committed to the effort to create a public dialogue as a result of the enactment of Local Law 1-2003. In fact, spurring this dialogue is one of the residual benefits of this law, because now there will be active and meaningful discussion focused on this public health dilemma. We would suggest that this dialogue expand to include other stakeholders – government, business community and insurers, physicians, social service organizations – who are concerned with the issue of the uninsured. The Nassau-Suffolk Hospital Council will continue to work with the Nassau County Department of Health to pursue this agenda over the course of the coming year.